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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,995

10/25/2005

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PF020131

5295

24498

7590

03/28/2008

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EXAMINER

EKPO, NNENNA NGOZI

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,995	Applicant(s) MAETZ ET AL.	
	Examiner Nnenna N. Ekpo	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/31/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The reference listed in the Information Disclosure Statement filed on March 31, 2005 has been considered by the examiner (see attached PTO-1449 form).

Specification

3. The abstract of the disclosure is objected to because it is a repetition of claim 1.
Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

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- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

4. **Claims 11-14** are objected to because of the following informalities:

(a) **On lines 2, 5, 6 and 9 of claim 11**, delete "a" and add --said-- or --the-- before "memory", delete "a" and add --said-- or --the-- before "startup application", delete "a" and add --said-- or --the-- before "first application" and delete "an" and add --said-- or --the-- before "second application" respectively since they have been mentioned previously.

(b) **On lines 3, 5 and 8 of claim 13**, delete "a" and add --said-- or --the-- before "startup application", delete "a" and add --said-- or --the-- before "first application ", delete "a" and add --said-- or --the-- before "test" and delete "an" and add --said-- or --the-- before "second application" respectively since they have been mentioned previously.

(c) **On lines 3, 4 and 8 of claim 14**, delete "a" and add --said-- or --the-- before "startup application", delete "a" and add --said-- or --the-- before "first application" and delete "an" and add --said-- or --the-- before "second application" respectively since they have been mentioned previously.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 15 is drawn to functional descriptive material for executing a program on a computer. The specification on page 13, lines 10-18 defines the claimed computer program product as encompassing statutory media such as cassettes, disks etc. as well as non-statutory subject matter such as signals and the like.

A “signal” embodying functional descriptive material is neither a process nor a product (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of §101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material.

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 6, 7, 10-15** are rejected under 35 U.S.C. 102(b) as being anticipated by Park et al. (U.S. Patent No. 6,460,180).

Regarding **claim 1**, Park et al. discloses an interactive television process applicable to a system where at least one transmitting station (information resource) transmits programmes to receivers (receiver unit), the process comprising (see abstract):

a) reception in one of said receivers, of a startup application (the trigger) and of a first application (the television video) and triggering of said startup application causing execution of steps b) to d) (see col. 2, lines 11-15, col. 3, lines 59-61, col. 7, lines 62-65 and col. 8, lines 3-6);

b) testing for a presence in a memory of said receiver of at least one file of additional data (rules) (see col. 2, lines 17-19, col. 3, lines 62-64 and col. 5, lines 57-col. 6, line 5);

c) in the absence of said file of additional data in said memory, starting up of the first application (see col. 2, lines 20-23, col. 3, lines 67-col. 4, line 5 and col. 6, line 3-4);

d) if said file of additional data is present in said memory, starting up of an second application (the merged web content and television video) using said file of additional data (see col. 2, lines 19-20, col. 3, lines 45-48, lines 64-67 and col. 4, lines 27-45).

Regarding **claim 6**, Park et al. discloses everything claimed as applied above (*see claim 1*). Interactive television process, wherein said file of additional data (rule) contains an additional application (script) (see col. 8, lines 30-52).

Regarding **claim 7**, Park et al. discloses everything claimed as applied above (*see claim 1*). Interactive television process, wherein during step a), said receiver also receives said second application (the merged web content and television video) (see col. 8, lines 17-29).

Regarding **claim 10**, Park et al. discloses everything claimed as applied above (*see claim 1*). Interactive television process, wherein said file of additional data (rules) contains data chosen from among at least a piece of software, video data (television video), pictures, sound and a combination of these types of data (see col. 8, lines 38- 44).

Regarding **claim 11**, Park et al. discloses everything claimed as applied above (*see claim 1*). Interactive television receiver comprising means for testing for the presence in a memory of said receiver, of at least one file of additional data (rules) (see col. 2, lines 17-19, col. 3, lines 62-64 and col. 5, lines 57-col. 6, line 5), comprising:

means of reception of a startup application (the trigger) and of a first application (the television video) (see col. 2, lines 11-15, col. 3, lines 59-61, col. 7, lines 62-65 and col. 8, lines 3-6),

and means of starting up the first application in the absence of said file of additional data in said memory (see col. 2, lines 20-23, col. 3, lines 67-col. 4, line 5 and col. 6, line 3-4) and of starting up an second application (the merged web content and television video) if said file of additional data is present in said memory (see col. 2, lines 19-20, col. 3, lines 45-48, lines 64-67 and col. 4, lines 27-45),

said receiver (receiver unit, 900) preferably being designed to implement an interactive television process in accordance with claim 1 (see fig 9).

Regarding **claim 12**, Park et al. discloses everything claimed as applied above (*see claim 11*). Digital television terminal, comprising an interactive television receiver (see col. 7, lines 38-47).

Regarding **claim 13**, Park et al. discloses everything claimed as applied above (*see claim 1*). Process for transmitting applications by a broadcasting station (information resource) to interactive television receivers (receiver unit) (see abstract), wherein said applications comprise a startup application (the trigger) and a first application (the television video) (see col. 2, lines 11-15, col. 3, lines 59-61, col. 7, lines 62-65 and col. 8, lines 3-6), said startup application being intended to cause a test for the presence in a memory of at least one of said receivers, of at least one file of additional data (rules) (see col. 2, lines 17-19, col. 3, lines 62-64 and col. 5, lines 57-col. 6, line 5), as well as to start up the first application in the absence of said file of additional data (see col. 2, lines 20-23, col. 3, lines 67-col. 4, line 5 and col. 6, line 3-4) and to start up an second application (the merged web content and television video) using said file of additional data if said file is present (see col. 2, lines 19-20, col. 3, lines 45-48, lines 64-67 and col. 4, lines 27-45), said transmitting process preferably being intended to implement said interactive television process in accordance with claim 1.

Regarding **claim 14**, Park et al. discloses everything claimed as applied above (*see claim 13*). Station (information resource) for transmitting programmes to interactive television receivers (receiver unit) (see abstract), comprising means of production and of transmission of at least one message comprising a startup application (the trigger) and a first application (the

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television video) (see col. 2, lines 11-15, col. 3, lines 59-61, col. 7, lines 62-65 and col. 8, lines 3-6), said startup application being intended to cause a test for the presence in a memory of at least one of said receivers of at least one file of additional data (rules) (see col. 2, lines 17-19, col. 3, lines 62-64 and col. 5, lines 57-col. 6, line 5), as well as to start up the first application in the absence of said file of additional data (see col. 2, lines 20-23, col. 3, lines 67-col. 4, line 5 and col. 6, line 3-4) and to start up an second application (the merged web content and television video) using said additional file if said file is present (see col. 2, lines 19-20, col. 3, lines 45-48, lines 64-67 and col. 4, lines 27-45), said transmitting station preferably being intended to implement the transmitting process according to claim 13.

Regarding **claim 15**, Park et al. discloses everything claimed as applied above (*see claim 1*). Computer program product comprising program code instructions for the execution of the steps of the process when said program is executed on a computer (see col. 8, lines 13-14 and col. 9, lines 44-48).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 2-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (U.S. Patent No. 6,460,180) as applied to *claim 1* above, and further in view of Rodriguez et al. (U.S. Publication No. 2002/0059623).

Regarding **claim 2**, Park et al. discloses everything claimed as applied above (*see claim 1*). Park discloses Interactive television process, wherein, with said transmitting station comprises at least one link for bilateral communication with said receivers, said process comprises the following prior steps (see col. 7, lines 39-41) and file of additional data (rules) (see col. 7, lines 62-65 and col. 8, lines 3-6):

However, Park et al. fails to specifically disclose e) reception of a message proposing loading of enhanced service data into said receiver; f) acceptance or refusal by a user of said receiver, of the proposed loading; g) in case of refusal, exiting from the present process; h) in case of acceptance, automatic downloading of said enhanced service data which is usable subsequently by said startup application into said receiver, via said bilateral communication link; i) recording in said memory of said receiver, of said enhanced service data.

Rodriguez et al. discloses e) reception of a message proposing loading of enhanced services data into said receiver (see paragraph 0014, fig 6, paragraph 0093, lines 21-30);

f) acceptance or refusal by a user of said receiver, of the proposed loading (see paragraph 0093, lines 30-32);

g) in case of refusal, exiting from the present process (see paragraph 0094, lines 1-2);

h) in case of acceptance, automatic downloading of said enhanced services data which is usable subsequently by said startup application into said receiver, via said bilateral communication link (see paragraph 0094, lines 2-8);

i) recording in said memory of said receiver, of said enhanced services data (see paragraph 0094, lines 16-20).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Park et al.'s invention with the above mentioned limitation as taught by Rodriguez et al. for the advantage of reducing downloading time.

Regarding **claim 3**, Park et al. and Rodriguez et al. discloses everything claimed as applied above (*see claim 2*). Park et al. discloses file of additional data (rules) (see col. 7, lines 62-65 and col. 8, lines 3-6). Rodriguez et al. discloses Interactive television process, comprising, before step f), the reception, by said receiver, of at least one cue regarding the contents, said cue preferably being chosen from among a size, a subsequent date of use, a date of expiry or of validity of the additional data, a date on which the additional data will be used, a broadcasting channel which will use the additional data, and a downloading address (downloaded) (see paragraph 0069, lines 1-4, Rodriguez et al. discloses downloading address).

Regarding **claim 4**, Park et al. and Rodriguez et al. discloses everything claimed as applied above (*see claim 2*). Park et al. discloses file of additional data (rules) (see col. 7, lines 62-65 and col. 8, lines 3-6). Rodriguez et al. discloses interactive television process, comprising, before step h), a step in the course of which the user indicates a choice of immediate downloading or of deferred downloading of said enhanced data (see paragraph 0110, lines 1-13, Rodriguez et al. discloses downloading enhanced data at a deferred time).

Regarding **claim 5**, Park et al. and Rodriguez et al. discloses everything claimed as applied above (*see claim 2*). Park et al. discloses the second application (the merged web content and television video) (see col. 2, lines 19-20, col. 3, lines 45-48, lines 64-67 and col. 4, lines 27-45).

Rodriguez et al. discloses interactive television process, wherein during step e), the reception of the proposal message is effected upon the reception of an application of the same type (see paragraph 0093, lines 21-27).

10. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (U.S. Patent No. 6,460,180) as applied to *claim 1* above, and further in view of Junqua et al. (U.S. Publication No. 2004/0236778).

Regarding **claim 8**, Park et al. discloses everything claimed as applied above (*see claim 1*). However, Park et al. fails to specifically disclose interactive television process, comprising a step of automatic erasing of the contents of said memory.

Junqua et al. discloses interactive television process, comprising a step of automatic erasing of the contents of said memory (see paragraph 0013, lines 10-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Park et al.'s invention with the above mentioned limitation as taught by Junqua et al. for the advantage of having more space in the memory.

Regarding **claim 9**, Park et al. and Junqua et al. discloses everything claimed as applied above (*see claim 8*). Park et al. discloses file of additional data (rules) (see col. 7, lines 62-65

and col. 8, lines 3-6). Junqua et al. discloses interactive television process, wherein a date of erasure is associated with said data and in that the erasure step comprises a periodic operation of reading this date and an erasure operation when this date is reached (see paragraph 0013).

Citation of Pertinent Prior Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tsuria et al. (U.S. Publication No. 2003/0163832) discloses interactive applications may be transmitted together with television programs or separately therefrom.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNE/nne
March 20, 2008.

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623